IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

REVIEW PETITION ST. NO.26859 OF 2005
IN
WRIT PETITION NO.6816 OF 2005

Suresh Shriram Padhye. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr.K. S. Patil with Mr. Shriram S. Redis for the Petitioner.
Mr. A. P. Vanarse, AGP for Respondent No.1.
.....

CORAM : F.I. REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

February 24, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.):

By our judgment dated 24th October 2005, we rejected the challenge of the Petitioner to an order of reversion from the post of Junior Engineer (Electrical) to the post of Electrician. This Court recorded a finding that under a Government Resolution dated 8th January 1975, the holding of a degree or diploma is the necessary qualification for promotion to the post of Junior Engineer (Electrical) and that admittedly, the Petitioner did not hold the said qualification. However, this Court directed that the case of the Petitioner for promotion to the post of Shift Engineer and

thereafter, to the post of Electrical Supervisor should be evaluated by the Second Respondent by convening a Review DPC.

The ground which was urged in support of the Review Petition was that the Petitioner was in fact, appointed to the post of Junior Engineer (Mechanical). It was urged before the Court that the post of Junior Engineer (Mechanical) is a Group I-A post in the G.R. dated 8th January 1975 and that in the affidavit in reply which was filed before the Court on behalf of the Second and Third Respondents, this part of the GR was not annexed. We are of the view that the contention of the Petitioner that he was appointed to the post of Junior Engineer (Mechanical) is clearly belied by his own averment in the Writ Petition. In para 3 of the petition, the Petitioner made the following averments:

> "The Petitioner states that the respondent no.1 promoted the Petitioner to the post of the Junior Engineer (Electrical) in the month of July 1997 as the Petitioner was having required qualification, experience and good service record. However, after having worked almost for 8 years for the post of the Junior Engineer (Electrical) the Petitioner was reverted from the said post to the post

> of Electrician by the Respondent on lame reasons that the promotion was against the Rules."

A similar averment is contained in sub-para (2) of para 3 thus:

> "The Petitioner states that considering his eligibility, experience and excellent service record the Petitioner was promoted to the post of Junior Engineer (Electrical). "

In these circumstances, the contention of the Petitioner that he was promoted to the post of Junior Engineer (Mechanical) is an obvious afterthought and cannot be countenanced.

However, it has been submitted that since the Review DPC is directed to be convened, the Second and Third Respondents may be directed to consider the case of the Petitioner for the post of Junior Engineer (Mechanical) since it is the case of the Petitioner that he meets the qualifications for that post as stipulated in Item (3) of Group 1-A of the GR dated 8th January 1975. We do not wish to express any view on the entitlement of the Petitioner on this aspect since it was not the subject matter of the submission which was urged before us when the main Writ

Petition was argued. We, however, leave it open to the Petitioner to make an appropriate representation to the Second Respondent which will take a decision thereon in accordance with law. The Review Petition is accordingly disposed of.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)